

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

CARLOS ANTONIO RILEY, JR.,)
)
Petitioner,)
)
v.) 1:16CV127
)
) 1:13CR122-1
)
UNITED STATES OF AMERICA,)
)
)
Respondent.)

ORDER

The Order and Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on October 30, 2018, was served on the parties in this action. Petitioner objected to the Recommendation. (Doc. 74.)

Petitioner's objections lack merit and generally do not require discussion. The only exception is Petitioner's request to hold this case in abeyance on the ground that the Supreme Court's grant of certiorari in Gamble v. United States, 138 S. Ct. 2707 (2018) may impact the Double Jeopardy landscape. However, if Gamble has an impact on Petitioner's convictions, it will not be on Petitioner's federal conviction for being a felon in possession of a firearm, as this conviction was first in time to a similar state conviction. For this reason, there is no reason to hold this case in abeyance, and the request is denied.

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination, which is in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's recommendation.

IT IS THEREFORE ORDERED that Petitioner's motion to vacate, set aside or correct sentence (Doc. 43) is DENIED. A judgment dismissing this action will be entered contemporaneously with this Order.

Finding neither a substantial issue for appeal concerning the denial of a constitutional right affecting the conviction nor a debatable procedural ruling, a certificate of appealability is not issued.

/s/ Thomas D. Schroeder
United States District Judge

December 4, 2018